1928

Department of L R & S

OFFICE Board of Revenue

STATION Chepauk

Mr. No. 3292

Dated 4-10-28

Nickly Pl

4.35 Gee 4/28

To whom sent	Date	Initial.
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(SUBJECT.)

Suits (S. Kamara) Coonapur Dtc -
03-258/28 - assignment - objection - Defence
Sanctioned

Ref. on A3-5817-28.

South Kanara Collector's Office,

Mangalore, 8th September 1928.

From

C.G. Herbert, Esquire, I.C.S.,

Collector of South Kanara.

To

The Secretary to the Board of

Land Revenue and Settlement,

Madras.

Sir,

Suits - Coondapoor - District Munsif's Court - O.S.No. 258. 1928

M. 3-5 C.K.

This suit has been filed by Ramaya Shetti and another against the Secretary of State (1st defendant) and one Manjamma Shedthi (2nd defendant).

2. The prayer is for setting aside the Coondapoor Tahsildar's order dated 23rd January 1926 in D.R.154/35 assigning S.No.159/2 of Hardali Mandali village to the 2nd defendant and for a declaration that the plaintiffs are entitled to the issue of patta of the said plot and plot marked A in the plan and to other consequential reliefs.

3. Plot A is still Government assessed waste. The Tahsildar assigned the other plot S.No.159/2 to the 2nd defendant as it formed her share of the kumki. The 2nd plaintiff also got his share of the kumki, plot S.No.159/3. The 2nd plaintiff did not produce any documents to prove his warg claim which is long time barred. His right of exclusive possession is unsustainable. No doubt he levelled a portion of the plot as marked in the plan; but the 2nd defendant objected to it within the period of 6 months as required by the rules and thus saved his kumki privilege. Hence it is that the 2nd plaintiff's appeal to the Revenue Divisional Officer, Coondapoor and his revision petition to the Collector were dismissed. Please see Coondapoor Divisional Officer's Proceedings D.Dis.1945/26, dated 28.6.1926

and Collector's Proceedings D.Dis.6736-26, dated 25.9.1926. The 2nd plaintiff's suit notice was recorded in this office D.Dis. 7585-27, dated 17.9.1927. His revision petition to the Board appears to have been dismissed in B.P. Rt.3689. dated 2.7.1927.

4. The plaintiffs' suit is not only time barred but also frivolous and vexatious. I request that the Board may be pleased to sanction the defence of the suit and approve the enclosed draft of the written statement prepared by the Vakil conducting Government suits at Coondapoor and modified by the Government Pleader, Mangalore.

5. The notice of suit dated 5.7.1928 was received from the District Munsif on 8.7.1928. The Coondapoor Vakil who was asked on 13.7.1928 to send a draft written statement sent it on 20.8.1928. The Government Pleader, Mangalore who was consulted on 21.8.1928 sent his opinion on 1.9.1928. The suit stands posted to 15.10.1928.

6. The records detailed in the margin* are enclosed for reference.

*
1. Copy of plaint ~~with plan.~~
2. Copy of draft written ~~statement~~.
3. Records of D.R.154/35 of Coondapoor Taluk.
4. Records of file D.Dis.1945-26 dated 28.6.1926 of Revenue Divisional Officer, Coondapoor.
5. Huzur file D.Dis.6736-26 dated 25.9.1926.
6. " D.Dis.7585-27 dated 17.9.1927.

Your obedient servant,

C.G. Nathan 8.9.28

Collector.

In the Court of the District Munsif, Kundapoor.

O.S.No. 1928.

Ramayya Shetty and another — Plaintiffs.

and

The Secretary of State for India in Council and another. — Defendants.

The above named plaintiffs beg to state as follows:

I. That (1) Ramayya Shetty, brother of Krishnayya Shetty, (2) Honnaya Shetty, nephew of Krishnayya Shetty, both residing in Hardalli Mandali village of Coondapoor Taluk are the plaintiffs.

The address of plaintiffs for service of all processes is as stated above.

II. That (1) The Secretary of State for India in Council, represented by the Collector of South Kanara, Mangalore is the first defendant; (2) Manjamma Shetthi, sister of Duggappa Naika, residing in the said Hardalli Mandali village of Coondapoor Taluk is the 2nd defendant.

III. That the plots Survey Field No.159/2 & 3 of Hardalli Mandali village carved out of S.F.No.121 and also the land to the north of it marked as A in the accompanying sketch are the kadim are warg lands of the family of the plaintiffs and have been in the exclusive possession and enjoyment of the plaintiffs and their predecessors from time immemorial, all the three plots forming one compact piece of land within one enclosure.

IV. That at the last settlement, the same were left out from the patta issued to the predecessors of the plaintiffs by over-sight; but the plaintiffs and their predecessors continued in possession of the same and the plaintiffs are even now in the enjoyment of the said plots on warg right.

V. That the plaintiffs converted a portion of S.F.No.159/2 and 159/3 into paddy flats marked as a & b and thereupon the Revenue authorities instituted Darkhast proceedings and in the said proceedings the Tahsildar of Coondapoor Taluk assigned only 159/3 to the 2nd plaintiff and assigned the whole of 159/2 to the 2nd defendant.

VI. That the 2nd plaintiff appealed against the said order to the Revenue Divisional Officer, Coondapoor which was dismissed

on insufficient grounds.

VII. That the revision petitions filed by 2nd plaintiff to the Collector of South Kanara and also to the Board of Revenue shared the same fate.

VIII. That the 2nd defendant has no manner of right to the plot S.F.No.159/2 which was wrongly assigned to her by the Tahsildar. She was never in possession and enjoyment of the same at any time.

IX. That apart from the warg claim of the plaintiffs, the are entitled to get the patta for S.F.No.159/2 as they have effected improvements thereon by converting a portion of it into a paddy field marked b which work was commenced about a year before the Darkhast proceedings were instituted, the second defendant having lost her kumki rights, if any, by her adverse possession of the plaintiffs under the darkhast rules. She was not at all entitled to the assignment of the said plots in her name. So the order of the Tahsildar is clearly illegal and untra-vires

X. That the plaintiffs having failed in their attempts to get justice at the hands of the Revenue authorities, are constrained to file this suit for the following reliefs; Notice required under Section 80 of Civil Procedure Code ha- been served on the Collector of South Kanara on 15-9-27.

XI. That the sketch prepared in the said case demarcating S.F.No.159/2 is not consistent with the order of the Tahsilda: in-as-much as the sketch includes the paddy field of the plaintiffs in S.F.No.159/2 when the order is to the effect that it must be excluded and given to the plaintiffs.

XIV. The plaintiffs value ~~of~~ the reliefs claimed in this suit for purposes of court fee and jurisdiction at Rs.140/-.

XV. Plaintiffs pray for a decree and judgment

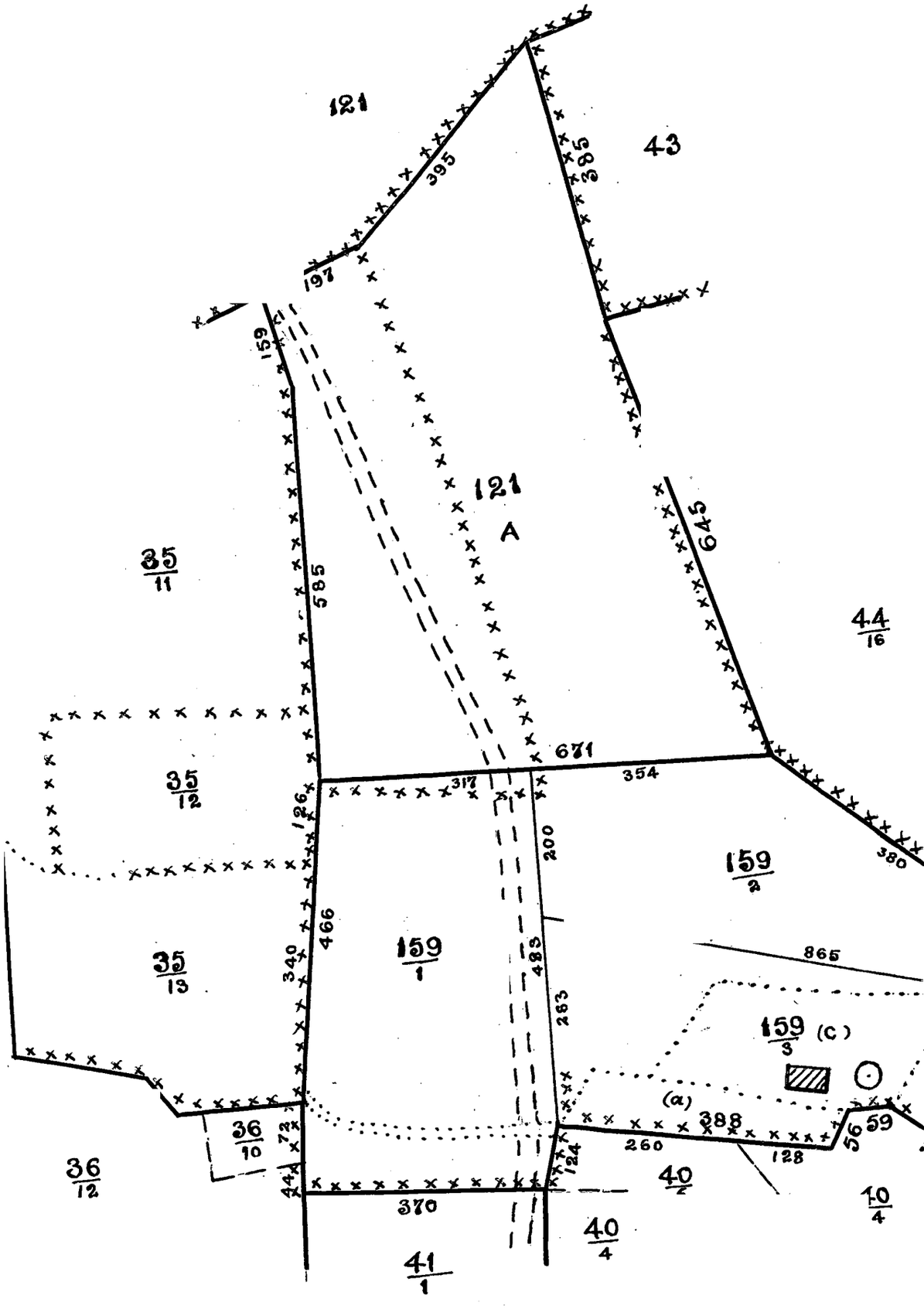
(1) Setting aside the order of the Coondapoor Tahsildar dated 23-12-26 assigning 159/2 to the 2nd defendant as it is illegal and invalid and declaring that the plaintiffs are entitled to the issue of patta of the said plots, S.F.No.159/1 and the plot adjoining it on the north marked as A in the accompanying sketch. This relief is value at Rs.
and a court fees of Rs.15/- is paid.

(2) permanently restraining the 2nd defendant by means of a permanent injunction from taking possession of the plot S.F.No. 159/2. This relief is valued at Rs 10-0-0

140-0-0

(3) granting to the plaintiffs such other reliefs as the court deems fit.

(4) ordering the defendants to pay plaintiffs the costs of this suit. Date 1-7-28.


121
43
395
385
197
159
121
A
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11
585
645
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671
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73
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370
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1

21 A, 159/2 } ಪಾದಿಯಲ್ಲಿ ವಿವಾದ ಜ್ಯೋತ್ಯುತ್ಪತ್ತಿ

159/3 (a)(b) ಪಾದಿಲ ಗದ್ದೆ ಖಾಲಿದ ಸ್ಥಳ

159/3 (c) ಮೋಗಲೆ ಪೂರ್ತಿ ಕಾಲಿ ಉಲ್ಲಲ ಸ್ಥಳ ಪಾದಿಲ ಕಬ್ಬಿಸಿದ್ದ

× ಅಗಳ್ಳಿ

ಕಾಡಿರಸ್ತೆ

ಪಾದಿರಸ್ತೆಗೆ ನಿಂಲು ಬರುವ ತೋಡು

35/13 ಬಾಗಿರತಿ ಡೊಂಗ್ಲು ಅನ್ಯಾಧೀನವಿಸುವ ಹಕ್ಕು ಸ್ಥಳ

35/12 ಅಬ್ದುಲ್ ಸಾಹೇಬರು

35/11 ಸಂಬಂಧಿಸಿದ ಉತ್ತ ರಂಗ ಬಿಕಾಳ ವಸ್ತುರವರು ಅನುಭವಿಸುವ ಹಕ್ಕು ಸ್ಥಳ

121 ಜೋಸಫ್ ಮೊಂತೆರೊ ಪಾಂತಿ

43 ಅಬ್ದುಲ್ ಸಾಹೇಬರು ಅನುಭವಿಸುವ ಹಕ್ಕು ಸ್ಥಳ

44/16 ಅತಿಕಾರಿ ವಂಶಿಯರ ಸೇರಿ ಅನುಭವಿಸುವ ಹಕ್ಕು ಸ್ಥಳ

159/1 ಪಚ್ಚೇರಿಲೆ ಗೋವಿಂದ ಸೇರಿ ಅನುಭವಿಸುವ ಸ್ಥಳ

40/1.2.3.4.5 ಪಾದಿಯಲ್ಲರ ಬಾವಿ ಪಕ್ಕೆ ಪಂಕ್ತಿ ಬಚ್ಚಿಲು ಸ್ಥಳಗಳು.

Copied by Abdul Rahaman
11.9.28

In the Court of the District Munsif of Coondapoor.

O.S.No.258/28.

Ramayya Shetti and another. Plaintiffs.

The Secretary of State for India in Council and another. Defendants.

Written Statement of the 1st defendant under Order 8, Rule 1 of Civil Procedure Code.

1. Plaintiffs' suit is frivolous and unsustainable at law. This defendant denies the truth of such of the allegations in the plaint as are not admitted herein specifically hereinafter.

2. This defendant emphatically denies the allegations in paragraph III of the plaint that S.Nos. 159 2 & 3 and the plot marked A in the plaint plan are the kadim warg lands of the plaintiffs forming one compact piece of land within one enclosure and have been in the exclusive possession and enjoyment of the plaintiffs and their predecessors from time immemorial. Plot S.No.159/2 was assessed Government waste and Government has ~~was~~ entitled to assign the same to whomsoever it pleased. Plot A is still Government assessed waste and is at the disposal of Government.

3. This defendant does not admit the correctness of the plaint plan.

4. Plaintiffs are not entitled to the assignment of get patta in respect of the plots mentioned in the plaint.

5. The conversion of that portion of plot b falling in S.No.159/2 into paddy field is of no avail to plaintiffs.

6. Assignment of the plots was justly made by Government. In any case, plaintiffs are not entitled to question the assignment.

7. The suit is barred. by limitation

8. Plaintiffs are not entitled to any of the reliefs claimed.

Prays therefore that the suit as against this defendant may be dismissed with costs.

C.G. Norton

Collector.

Ag. Date 15-10-28

Subject.— Suits (South Kanara) – Coondapur Dte – Cos 258/28 – assignment – objn – Defence – Sanctioned

R. F. XXII-A-19.—22,004 1-2-28. (6)

FOR MEMBER

S

AS.

READ AGAIN B. P. No. _____ dated _____ 192

" " " _____ , " _____ 192

READ ALSO :—

Register No. A 5777/28, ~~From the~~ _____, No. _____, dated _____ 192

" _____ " " _____, " _____ " _____ 192

" " _____ " " " _____, " _____, " _____ 192

RESOLUTION. (Mis) No. 3292, dated 4-X-192

P7 Cf

The Board sanctions the defence of the suit and approves the draft written statt submitted by the Collr subject to the following modifications

(1) Add the following at the end of paragraph 1:

"This defendant denies the truth of such of the allegations in the plaint as are not expressly admitted herein and puts the plaintiffs to strict proof of the same"

(2) In para 2 second sentence

Substitute has the right" for
was entitled".

(3) Insert the following as paras 3 & 4 (and renumber the existing paragraphs suitably

"3. The 2nd Defendant had p1
"Kumki right in respect of Suit
"159/2. It is true that the 2nd
"Plaintiff converted a portion of
"this into a paddy field but the
"2nd Defendant objected to the
"occupation within 6 months
"and thus saved her Kumki
"right. The assignment of the
"whole plot 159/2 to her by the Tahsildar p43(Y)
"therefore legal and proper and
"no order was withdrawn/cancelled
"by the R.D.O the Collr and the (B) (J) & (F)
"Board of Rev The Civil Ct has
"no jurisdiction to question
"the orders passed by Rev Offices
"within their jurisdiction"

"4. The allegation in para XI b4 Ct
"of the plaint that the Sketch p13(Y)
"prepared in the Darkhast case
"demarcating S.No 159/2, is not
"consistent with the order of
"the Tahsildar is incorrect. The

Defendant's
and ~~Plaintiffs~~ Kumiki 1794 is allowed in para 2 of the Tahsildar's order was in respect of S.No 159/3. and not in respect of the plots in 159/1

(4) In the existing para 4 the word. get patta in respect of Substituted The assignment of

(5) Add the words " by limitation at the end of para

(6) In para 8 ~~intent~~ insert the words " of the" after "any" and add the word " claimed" at the end.

p44 (Y.

See E.9's report at p40(Y)

Shd not die in Rev. Courts on receipt of instrument of title

18.9.18.

14.9.18

Mr. Crypto Ramaswamy

18/9/18

18/9.

To the Coll of S Kanara
with records as per list
herein.